In the High Court of Judicature at Madras

Dated : 17.9.2007

Coram :-

The Honourable Mr.Justice K.RAVIRAJA PANDIAN
and
The Honourable Mrs.Justice CHITRA VENKATARAMAN

Tax Case (Appeal) No.1251 of 2007

The Commissioner of Income Tax
Tamil Nadu IX, Madras .. Appellant

Vs

Dr.(Mrs.)Shiela Sathia Kumar
8, Mariadoss Street, Royapuram
Chennai 13. .. Respondent

TAX CASE (APPEAL) under Section 260A of the Income Tax Act against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench dated 9.3.2007 made in I.T(SS).A.No.18/Mds/2004 for the Block assessment period 1.4.1990 to 23.11.2000 as against the order in I.T.A.No.191/02-03 dated 22.12.2003 on the file of Commissioner of Income Tax (Appeals) Central 1, Chennai against the order of the Deputy Commissioner of Income Tax, Central Circle IV (1) Chennai in PA No./G.I.R.706-S.dated 31.3.03.

For Appellant:- Mrs.Pushya Sitaraman
Standing Counsel (Income Tax)

JUDGMENT

JUDGMENT OF THE COURT WAS DELIVERED BY K.RAVIRAJA PANDIAN,J

The appeal is filed by the Revenue against the order of the Income Tax Appellate Tribunal Madras 'A' Bench made in I.T(SS). A.No.18/Mds/2004 dated 9.3.2007.

2. The facts culminating in filing the appeal are as follows:

The assessee is the owner of the Building in which Ms/.Sugam Hospital is functioning. The assessee is also practising as Sonologist in the hospital. The assessee derives income under the head salary, rental income and interest from bank. Action under section 132 of the Income Tax Act was conducted on

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

23.11.2000. The return for the assessment year 2000-01 was due on 13.1.2000. On the date of search, the return for assessment year 2000-01 was not filed. The assessing officer issued notice under Section 158BC on 27.4.2001. The return of income in form No.2B was filed on 12.7.2001 admitting undisclosed income of Rs.Nil. The assessing officer computed the undisclosed income for the Block period at Rs.6,66,550/- . Against that order the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) and the Commissioner of Income Tax (Appeals) directed the assessing officer to delete Rs.6,66,550/- as undisclosed income. Against that order, the department preferred appeal before the Income Tax Appellate Tribunal. The Tribunal following the decision of this Court reported in 274 ITR 110 (ASST. COMMISSIOENR OF INCOME TAX VS. A.R. ENTERPRISES) dismissed the appeal. The correctness of the said order is now canvassed in the present tax case appeal by formulating the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in law in holding that the sum of Rs.6,66,550/- representing the income returned by the assessee for the assessment year 2000-01 should not be treated as undisclosed income of the assessee within the meaning of section 158BB of the Income Tax Act 1961?

3. When the matter was taken up for admission, learned counsel for the Revenue submitted that the issue is covered by the decision of this Court in the case of ASST. COMMISSIOENR OF INCOME TAX VS. A.R. ENTERPRISES (274 ITR 110) and the appeal may be dismissed following the above said judgment.

4. In the above said case reported in 274 ITR 110 (ASST. COMMISSIOENR OF INCOME TAX VS. A.R. ENTERPRISES) this Court held that when the advance tax was paid for the relevant assessment year, even though return was not filed, income cannot be treated as undisclosed income. Hence, following the decision as referred to above, the tax case appeal is dismissed as the question of law formulated has already been answered against the revenue in the said case.

WEB COPY

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

krr/

https://hcservices.ecourts.gov.in/hcservices/

To

1.The Assistant Registrar, Income-Tax Appellate Tribunal,
III Floor, Rajaji Bhavan, Besant Nagar, Madras 90 (with records five copies).

2. The Deputy Commissioner of Income Tax, Central Circle IV (1), Chennai

3. The Commissioner of Income Tax Appeals,
Central -1, Chennai.

4. The Commissioner of Income Tax
Tamilnadu IX, Madras.

1 cc to M/s. Pushya Sitaraman, Standing Counsel for IT. SR. 58026

Tax Case (Appeal) No.1251 of 2007

KA (CO)
kk 22/10

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/